



# Arizona State Senate *Issue Brief*

December 3, 2007

## Note to Reader:

The Senate Research Staff provides nonpartisan, objective legislative research, policy analysis and related assistance to the members of the Arizona State Senate. The *Research Briefs* series, which includes the *Issue Brief*, *Background Brief* and *Issue Paper*, is intended to introduce a reader to various legislatively related issues and provide useful resources to assist the reader in learning more on a given topic. Because of frequent legislative and executive activity, topics may undergo frequent changes. Additionally, nothing in the *Brief* should be used to draw conclusions on the legality of an issue.

## ARIZONA STATE TRUST LAND

### INTRODUCTION

Prior to Arizona becoming a state in 1912, the Enabling Act (Act) was passed on June 20, 1910. The Act contained a number of directives designed to prepare the Territory of Arizona for statehood. Included among these provisions was the requirement that sections 2 and 32 of each township be held in trust for the common schools, unless those sections were not available at which point the state selected or traded for other land. Sections 16 and 36 of each township were already granted to the territory for the benefit of public schools by the act of Congress creating the Territory of Arizona in 1863. In time, the needs of other public institutions were recognized by Congress and more than two million additional acres of federal land were granted to the state through the Act for use by the additional beneficiaries. There are a total of 14 beneficiaries to the trust, with the public schools being the major beneficiary. (See table for complete list)

In 1915, the State Land Department (Department) was created and given authority over all state trust lands and the natural products derived from the land. The mission of the Department is to manage the trust lands and maximize revenues for the beneficiaries. These revenues are maintained in either the Permanent Fund, if the revenue is derived from the sale of land or resources, or distributed directly to the beneficiaries, if the revenue is derived from leases, rentals or interest from financed sales.

The Arizona State Treasurer is responsible for managing and investing the monies in the Permanent Fund. Earnings are distributed from those investments to the beneficiaries based on a constitutional formula. In FY 2006-2007, \$194.8 million was deposited into the Permanent Fund and \$122 million was distributed directly to the beneficiaries, including \$67 million that was deposited into the Classroom Site Fund.

The table on the following page lists the beneficiaries of state trust land in Arizona:

Beneficiary	Acreage of Trust Land	% of Trust Land
Common Schools (K-12)	8,101,127	87.5%
University Land Code	137,908	1.5%
University of Arizona (Act of 2/18/1881)	54,157	0.6%
Miners' Hospital (2 Grants)	95,431	1.0%
Schools for the Deaf and the Blind	82,560	0.9%
State Charitable, Penal and Reformatory Institutions	76,818	0.8%
Penitentiaries	76,111	0.8%
State Hospital Grant	71,248	0.8%
Normal Schools	174,798	1.9%
School of Mines	123,254	1.3%
Military Institutes	80,168	0.9%
Agricultural and Mechanical Colleges	124,944	1.3%
Legislative, Executive and Judiciary Buildings	64,257	0.7%
<b>Total</b>	<b>9,262,781</b>	

### Land Uses

Public land, such as parks or national forests, is generally provided for public benefits. While trust land essentially belongs to the state it is not considered public land. Public use of trust land is not prohibited, but it is regulated to ensure protection of the land and resources and compensation for its use. The majority of trust lands are currently used for livestock grazing; however, all uses of trust land must benefit the trust. There are many uses of state trust land, including outright sale of the land, lease or rental of the land, sale of natural resources from the land and grants of rights-of-way.

During the first 50 years of statehood, the state's economy was tied to the extraction and cultivation of natural resources. Thus the management of trust lands was primarily based on rural land uses such as livestock grazing, agriculture and mineral production. However, as urban areas grew, new industries arose in Arizona and the Department somewhat shifted its focus to address urban land and commercial development. With the passage of the Urban Lands Management Act in 1981, the Department was given new authority to plan, zone and merchandize the urban trust lands surrounding the state's major urban population centers. As a result of this change, sale and lease of urban lands have generated the largest revenues for the trust beneficiaries. By the end of FY 2006-

2007, the aggregate total book value of the Permanent Fund totaled over \$2 billion.

Currently, state trust land comprises about 12.7 percent of all land in Arizona, equaling over nine million acres. Nearly all state trust lands are under one or more leases for natural resource uses and commercial development purposes. Additionally, federal land comprises about 42.1 percent of the land in Arizona, Indian Trust about 27.6 percent and private land about 17.6 percent.

### Arizona Preserve Initiative

The Arizona State Legislature and the Governor enacted the Arizona Preserve Initiative (API) in 1996. The API is a program that allows certain parcels of urban state trust land to be reclassified for conservation purposes. For the purposes of the API, statute defines conservation as *protection of the natural assets of state trust land for the long-term benefit of the land, the truest beneficiaries, lessees, the public and the unique resources that each area contains such as open space, scenic beauty, protected plants, wildlife archaeology and multiple use values.* The original legislation included lands within incorporated cities or towns, within one mile of incorporated cities or towns with a population of 10,000 persons or less or within three miles of municipalities with a population exceeding 10,000 persons. Those distances were later

increased to ten miles beyond the original boundaries for Maricopa and Pima counties and other specific lands were also made eligible for conservation.

Land may be nominated by the State Land Commissioner (Commissioner) to be reclassified as suitable for conservation purposes on the Commissioner's initiative or if a state or local government, business, state land lessee or a group of citizens submits a petition. Before the land can be reclassified the Department must provide notice, hold public hearings and consider physical and economic impacts to current lessees and determine whether the reclassification is in the best interest of the trust. Once land has been reclassified an independent appraisal and review appraisal of the fair market value of the land must be completed and upon issuing statutorily required notices the Commissioner may hold a public auction for the sale of the land. As of fall 2005, the Department had received petitions requesting reclassification of approximately 120,032 acres, 18 petitions for 42,511 of those acres were at least partially completed and through 8 land sales approximately 2,331 acres were sold as conservation land for a total amount of \$39,944,200 deposited in the Permanent Fund.

Laws 1998, Chapter 204, established a matching funds grant program for API eligible lands and, subsequently, Proposition 303, approved by voters in 1998, authorized a \$20 million appropriation each year from the state General Fund for 11 years beginning in FY 2000-2001. The appropriated monies are deposited in the Land Conservation Fund, which is administered by the State Parks Board. The estimated balance in the Land Conservation Fund at the end of FY 2006-2007 was \$122 million and the total amount of matching monies from the Land Conservation Fund deposited into the Permanent Fund from the sale of API land is approximately \$19,972,100.

In 2003, objections were raised concerning the constitutionality of the API program. As a result, the Department opted to cancel auctions for the land in question and did not offer any further sales of land under the API program for four years. Several propositions, both through

initiatives proposed by citizens and referendums passed by the Legislature, have since been offered on the ballot to resolve the issue. However, voters have rejected each proposition related to the sale of conservation land as well as every other ballot measure related to state trust land since 1990.

In November, 2007 the Department auctioned off a 940-acre parcel of state trust land, reclassified under the API Program. The City of Phoenix purchased the parcel, in part with matching monies distributed by the State Parks Board. According to the Department, in order to resolve any outstanding constitutionality issues, the land was appraised for highest and best use and was sold without any conservation restrictions. The City of Phoenix has plans to develop 82 acres of the parcel as a future park site, and the remaining land will remain open desert.

#### ***ADDITIONAL RESOURCES***

- Arizona State Land Department  
1616 W. Adams, Suite 302  
Phoenix, AZ 85007  
602-542-4621  
<http://www.land.state.az.us/>
- Arizona State Parks  
1300 W. Washington  
Phoenix, AZ 85007  
(602) 542-4174  
<http://www.pr.state.az.us/>
- State and School Lands: Arizona Revised Statutes, Constitution, Article X
- Public Lands: Arizona Revised Statutes, Title 37
- Trust Lands Suitable for Conservation: Arizona Revised Statutes, Title 37, Chapter 2, Article 4.2
- Land Conservation Fund: Arizona Revised Statutes § 41-511.23